

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6189 OF 2005

Limbaji Maruti Tapase ..Petitioner.

Vs.

State of Maharashtra & Ors. ..Respondents.

...

Mr.S.A.Sawant for the Petitioner.

Mr.V.P.Malwankar, AGP for the State.

...

CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

21st September, 2005.

P.C. :

1. The Petitioner joined the services of the Respondents based on the school leaving certificate and that was the date entered in the service book. Clause (f) of Rule 38(2) of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 as it stood reads as under:

"When once an entry of age or date of birth has been made in a service book, no alteration of the entry should afterwards be allowed, unless it is known that the entry was due to want of care on the part of some person other than the individual in question or is an obvious clerical error."

2. A reading of the rule clearly shows that the Petitioner's case would not fall under the said Rule. The Petitioner had applied in the year 1980 for correction of his date of birth from 15.07.1947 to 06.03.1949. The Petitioner was informed by a communication dated 2.7.1981 that his application was rejected. The Petitioner chose not to challenge the said decision of the Respondent.

3. It is the case of the Petitioner that he went on representing and thereafter he made a fresh application. It is further contention that based on the Government Resolution dated 3rd March, 1998, the application of the Petitioner for change in the date of birth ought to have been allowed.

4. As noted by the Apex Court in several judgments, this Court should not ordinarily entertain a petition for change in the date of birth at the fag end of the career when the Petitioner is due to retire. The Petitioner in the instant case had applied. That application was rejected. This fact was, therefore, known to the Petitioner. Inspite of that the Petitioner chose not to move any forum within a reasonable time. The Petitioner has since retired. Under these circumstances, this would not be a fit case for this Court to exercise the extra-ordinary jurisdiction. Hence, the Petition is rejected.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)